IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 1326 of 2005

Between:

Gandla Indira W/o. Gandla Rajeshwara Rao,
Nehru Street, Rama Talkies Area, Kothagudem, Khammam District.

..... PETITIONER

AND

1 The Government of A.P., rep. by its Chief Secretary,

Secretariat, Hyderabad.
2 The Collector and District Magistrate, Khammam.
3 The Superintendent, Central Prison, Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Habeaus Corpus under Art. 226 of the Constitution of India directing the respondents to produce Gandla Rajeshwar Rao now detained in Central Jail, Warangal

before this Hon'ble Court and he may be ordered to be released forthwith after declaring that this detention as illegal and void.

Counsel for the Petitioner:MR.C.PRAVEEN KUMAR

Counsel for the Respondent No.: THE ADVOCATE GENERAL

O R D E R (Per BN,J)

This writ petition has been filed by the wife of one Gandla Rajeshwar Rao, who has been detained by an order of 2nd respondent under provisions of A.P. Prevention of Dangerous Activities of Boot Leggers, Decoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act'). The grounds of detention have been served on the detenue and the detention is challenged on various grounds. One of the grounds taken by the petitioner is that out of five grounds, four grounds are stale as there is no proximity in between the alleged offences.

2 . The first incident registered against the detenue was on 12.10.1997 in COR No.21/97. The second incident relates to an offence in COR.208/1999-2000 dated 21.3.2000. No incident is mentioned in the grounds of detention between 12.10.1997 and 21.3.2000. The third incident relates to a case registered on

2.5.2003. So, between the first incident and the second incident, there is a gap of almost three years and similarly the gap between the second incident and the third incident is also three years.

3. The Supreme Court in the decision reported in COLLECTOR AND D.M.WEST GODAVARI vs. S.KONDAMMA has held that if there is no proximity between the two incidents, then the grounds may be taken to be stale. It also held that if one incident is not proximate with another incident, then the incident becomes irrelevant.

4. Since the grounds under the Act are not separable, therefore, the detention has to be quashed.

5. For the above reasons, we allow the writ petition and quash the order of detention and direct the release of the detenue forthwith, if not needed in any other case.

BILAL NAZKI,J

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avs G.YETHIRAJULU,J

Date:15.2.05

To.

1 The Government of A.P., rep. by its Chief Secretary,

Secretariat, Hyderabad.
2 The Collector and District Magistrate, Khammam.
3 The Superintendent, Central Prison, Warangal.

4. To C.Cs. to G.P. for Home, High Court Buildings(OUT)

5. Two C.D. copies.